

JODY LYNN BROWN
Claimant

ALDRSGATE VILLAGE
Respondent

**KS. ASSOC. OF HOMES FOR THE
AGING INS. GROUP**
Insurance Carrier

Respondent argues the claimant suffered an intervening motor vehicle accident which necessitated her medical treatment. Accordingly, respondent argues the Administrative Law Judge's Order should be affirmed.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

Having reviewed the evidentiary record herein, the Board makes the following findings of fact and conclusions of law:

On March 17, 2002, claimant was performing her duties as a charge nurse for respondent when she caught a resident to prevent his fall from bed. Claimant experienced pain in her back. The following morning claimant described her back as “burning, stiff and sore.”

At the morning report meeting before her shift started on March 18, 2002, claimant advised her supervisor that she had hurt her back catching the falling resident. The supervisor recalled claimant saying she may have hurt her back. Because it is the employee’s responsibility to fill out an incident report if injured at the workplace, the supervisor inquired if claimant had filled out an incident report and claimant responded she had not.

Claimant neither requested nor sought medical treatment and continued to work her regular shifts until March 25, 2002. Claimant performed her job duties at a slower pace. Claimant was scheduled to work on the 25th but instead called in and advised her employer that she would be unable to work because on her way to work her car had slid off an icy road into the ditch.

Claimant described the motor vehicle incident as simply sliding off the roadway onto a flat ditch. However, claimant related that after the accident she could not go to work because it hurt too bad when she moved. She further noted that her back pain permanently intensified after her car accident.

On March 26, 2002, claimant again advised her employer that she would be unable to work because she had hurt her back when her car left the roadway the previous day. On March 28, 2002, claimant sought treatment for her back with her personal physician. Claimant was prescribed medication and physical therapy. Claimant was unable to return to work while undergoing treatment.

When the primary injury under the Workers Compensation Act is shown to arise out of and in the course of employment, every natural consequence that flows from the injury including a new and distinct injury, is compensable if it is a direct and natural result of the primary injury.¹ A worsening in a claimant’s condition only becomes non-compensable

¹ *Jackson v. Stevens Well Service*, 208 Kan. 637, 493 P.2d 264 (1972).

where it would have occurred even absent the primary injury or where it is shown to have been caused by an independent non-industrial cause.²

The claimant provided respondent with notice of an incident where she had hurt her back catching a falling resident. After providing that notice, the claimant did not request medical treatment and continued performing her regular job duties. Claimant then suffered additional back injury during a motor vehicle accident. Claimant described her back pain as significantly worse than it had been and further noted her back pain never returned to the condition it had been before the motor vehicle accident. After the motor vehicle accident, claimant was unable to work and first sought medical treatment for her back. When she advised respondent she would be unable to work she noted that she had hurt her back in the motor vehicle accident and was receiving treatment for that condition.

The Board concludes the preponderance of the evidence supports the finding of the Administrative Law Judge that claimant suffered an intervening motor vehicle accident which caused her current medical condition. Accordingly, the Administrative Law Judge's Order is affirmed.

AWARD

WHEREFORE, it is the finding, decision and order of the Board that the Order of Administrative Law Judge Bryce D. Benedict dated August 8, 2002, is affirmed.

IT IS SO ORDERED.

Dated this _____ day of October 2002.

BOARD MEMBER

c: Roger D. Fincher, Attorney for Claimant
Michael L. Entz, Attorney for Respondent
Bryce D. Benedict, Administrative Law Judge
Director, Division of Workers Compensation

² *Nance v. Harvey County*, 263 Kan. 542, 952 P. 2d 264 (1997).